

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILLIAM SCALES,

Plaintiff,

-V-

HOTEL TRADES COUNCIL OF NEW YORK,
LOCAL 6,

Defendant.

21 Civ. 8142 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

In an Opinion and Order dated February 6, 2023, the Court dismissed Plaintiff William Scales's Second Amended Complaint, granted him leave to amend that complaint by March 8, 2023, and informed Scales that if he failed to amend by that deadline, the case would be dismissed. Dkt. 76. On February 7, 2023, Scales filed a letter with the Court regarding his case, expressing his desire to increase his claimed damages, discussing the conduct of Defendant's counsel, and taking issue with Defendant's efforts to resolve this litigation. Dkt. 77. The Court determined that this letter was not an amended complaint, dismissed this case with prejudice, and directed the Clerk of Court to enter judgment. Dkt. 79.

On April 5, 2023, Scales filed a letter stating that his February 7, 2023 letter was “actually [his] amended complaint,” Dkt. 81, and attached an altered version of that letter which included “Amended Complaint” as a heading, Dkt. 81-1. The Court allowed Scales until April 18, 2023 to explain how his February 7, 2023 letter could be considered an amended complaint and how that document remedied the pleading deficiencies identified by the Court in its February 6, 2023 Opinion and Order. Dkt. 83. That Opinion and Order dismissed Scales’s Second Amended Complaint for failure to state a claim for breach of the duty of fair representation by Defendant,


because Scales failed to allege actions that were “arbitrary, discriminatory, or taken in bad faith,” as opposed to merely negligent. *Scales v. N.Y. Hotel & Motel Trades Council, Local 6*, No. 21 Civ. 8142 (JPC), 2023 WL 1779617, at *8 (S.D.N.Y. Feb. 6, 2023).

Scales then filed a letter on April 18, 2023 stating that his February 7, 2023 letter should be treated as an amended complaint “because it illustrates an estimate of damages that has been caused since the start of this trial including a delay in the process of the arbitration motion.” Dkt. 84. Scales did not address how his February 7, 2023 letter addressed the pleading deficiencies previously identified by the Court, and indeed repeatedly refers to Defendant’s conduct as “neglect” in his April 18, 2023 filing. *Id.*

Ultimately, Scales has not changed the Court’s determination that the February 7, 2023 letter was not an amended complaint and that this case was therefore properly terminated on April 3, 2023 after Scales failed to file an amended complaint. But even if the Court were to consider the February 7, 2023 letter as an amended complaint, Scales has presented no argument as to how it remedies the pleading deficiencies in the Second Amended Complaint. Nor does the Court, upon its own review of the document, determine that it remedies Scales’s previous pleading deficiencies. The February 7, 2023 letter does not address Defendant’s conduct underlying this litigation and discussed in the Second Amended Complaint, Dkt. 53, and instead primarily discusses Defendant’s and Defendant’s counsel’s conduct throughout this case and a concurrent arbitration. Dkt. 77. The Court therefore does not see how Scales’s letter could be said to amend the Second Amended Complaint, let alone remedy the pleading deficiencies in that complaint.

SO ORDERED.

Dated: April 26, 2023
New York, New York



JOHN P. CRONAN
United States District Judge